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Before the
Federal Communications Commission
Washington, D.C. 20554

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APR 11 2005

Federal Communications Commission
Office of the Secretary

In the Matter of

San Francisco Unified School District

For Renewal of License for Station KALW(FM),
San Francisco, California

MB Docket No. 04-191

Facility ID No. 58830

File No. BRED-19970801YA

To: Chief Administrative Law Judge
Richard L. Sippel

ENFORCEMENT BUREAU'S
MOTION FOR ADDITIONAL DISCOVERY

1. The Enforcement Bureau (the "Bureau"), by its attorneys and pursuant to sections 1.311 and 1.353 of the Commission's rules,¹ hereby moves that the Presiding Administrative Law Judge ("Presiding ALJ") authorize further discovery in the above-captioned case.

2. By Memorandum Opinion and Order released April 1, 2005 ("MO&O"), the Presiding ALJ granted the Bureau's request to designate an additional issue in this proceeding to explore whether agents of the licensee, the San Francisco Unified School District ("SFUSD"), lacked candor or misrepresented facts during discovery conducted in September 2004. In that MO&O, the Presiding ALJ also ordered that the Bureau would bear the burden of proceeding and the burden of proof and that, should it require additional discovery, the Bureau demonstrate with particularity the need for such discovery to allow the Bureau to meet that burden.²

¹ 47 C.F.R. §§1.311, 1.353.

² Memorandum Opinion and Order, FCC 05M-17 (rel. Apr. 1, 2005).

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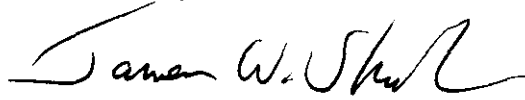
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3. In order for the Bureau to have a reasonable opportunity to meet its burden of proof,³ it seeks access to limited documentary evidence that is exclusively within the control of SFUSD, such as the attendance records of the station's General Manager and communications among the station's Operations Manager, its General Manager, and the General Manager's immediate supervisor. *See* Enforcement Bureau's Fourth Request for Production of Documents served on SFUSD on April 7, 2004 ("Fourth Request"), a copy of which is attached for reference. Such documentary evidence will enable the Bureau to establish whether, and to what extent, the General Manager and Operations Manager may have misrepresented facts and/or lacked candor during the Bureau's deposition regarding these individuals' possible involvement in providing false responses to the Commission in April 2001.

4. In light of the seriousness of the recently added issue and the important public interest in developing a full and complete record with which the Presiding ALJ may resolve it, the Bureau requests the grant of this Motion and the issuance of an order directing SFUSD to produce all requested documents in the manner described in the Bureau's Fourth Request.

³ *See, e.g., Kittyhawk Broadcasting Corp., Kettering, Ohio, et al*, Memorandum Opinion and Order, 15 FCC 2d 322 (Rev. Bd., adopted Nov. 29, 1968) (granting in part movant's request for additional discovery after an issue had been added to the proceeding).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James W. Shook". The signature is fluid and cursive, with the first name "James" and last name "Shook" being the most prominent parts.

William D. Freedman, Deputy Chief
James W. Shook, Special Counsel
Dana E. Leavitt, Special Counsel
Investigations and Hearings Division
Enforcement Bureau

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420

April 11, 2005

CERTIFICATE OF SERVICE

Dana E. Leavitt, Special Counsel in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 11th day of April, 2005, sent by first class United States mail, electronic mail (e-mail) and/or delivered by hand, copies of the foregoing "Enforcement Bureau's Motion for Additional Discovery" to:

Marissa G. Repp, Esq. (by first class and electronic mail)
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Louise H. Renne, Esq. (by first class and electronic mail)
Renne Sloan Holtzman & Sakai, LLP
50 California St. Suite 2100
San Francisco, Ca. 94111

Chief Administrative Law Judge Richard L. Sippel (by hand and electronic mail)
Federal Communications Commission
445 12th Street, S.W., Room 1-C768
Washington, D.C. 20054

A handwritten signature in black ink, appearing to read "Dana E. Leavitt", with a stylized flourish at the end.

Dana E. Leavitt

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Before the
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In the Matter of)	MB Docket No. 04-191
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San Francisco Unified School District)	
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For Renewal of License for Station KALW(FM),)	Facility ID No. 58830
San Francisco, California)	File No. BRED-19970801YA
To: San Francisco Unified School District		

ENFORCEMENT BUREAU'S
FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS
FROM THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT

1. The Enforcement Bureau (the "Bureau"), by its attorneys and pursuant to section 1.325 of the Commission's rules,¹ hereby requests that, within ten (10) days of service of this Request, the San Francisco Unified School District ("SFUSD") produce certain Documents, as defined and specified herein, for inspection and copying. SFUSD shall produce such Documents at the offices of the Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Suite 4-C330, Washington, D.C. 20554, or at some location that is mutually acceptable to the Bureau and SFUSD.

2. The Bureau bears the burden of proof regarding the newly-added issue in this proceeding of whether SFUSD agents may have misrepresented facts or lacked candor during discovery.² In order to meet this burden, the Bureau now seeks specific evidence related to communications made and/or received by those individuals. Specifically, the

¹ 47 C.F.R. §1.325.

² In adding this issue, the Presiding Judge provided for limited discovery if the Bureau showed with particularity that further discovery is required in order for the Bureau to meet its burden of proof. See Order, FCC 05M-17 (rel. Apr. 1, 2005). For the reasons

Bureau seeks those Documents that relate to any communication regarding the Application and File, as defined herein, exchanged among and/or between the Station's General Manager, Ms. Nicole Sawaya, its Operations Manager, Mr. William Helgeson, and Ms. Jackie Wright, Ms. Sawaya's supervisor at the station,³ during the period March 1, 2001, through the present.

Instructions

Each Document shall be produced in its entirety, even if only a portion of that Document is responsive to the request herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to this inquiry must also be produced.

If a Document responsive to the request herein existed but is no longer or not currently available, or if SFUSD is unable for any reason to produce a Document responsive to the request, each such Document shall be identified by author, recipient, date, title, and specific subject matter, and a full explanation shall be provided why the Document is no longer available or why SFUSD is otherwise unable to produce it.

If any Document produced in response to the request herein is not dated, the date on which the Document was prepared shall be provided. If any Document does not identify its author(s) or recipient(s), the name(s) of the author(s) or recipient(s) of the Document shall be provided.

noted herein, the materials sought by this Request will assist the Bureau in so meeting its burden.

³ See Declaration of Nicole Sawaya executed March 2, 2005, ¶3.

This Request is continuing in nature, requiring immediate production if a further or different Document responsive to the request herein comes into the possession, custody, or control of SFUSD during the pendency of this proceeding.

If production of any Document responsive to this Request is refused pursuant to a claim of privilege, the Document shall be identified by reference to its author, recipient(s) (including any person receiving a copy, regardless of whether that recipient is listed on the Document), date, and subject matter. The basis for the privilege claimed for such Document shall be specified with sufficient precision to permit assessment of the applicability of the privilege involved.

Documents responsive to this Request herein may be produced under seal and/or with a protective order and will not be made part of the public record unless both parties so agree, or unless the Presiding Judge so authorizes pursuant to a motion from the party that wishes to make the document (or a part thereof) part of the public record.

Unless otherwise specified, the period of time covered by this Request is March 1, 2001, to the present.

Definitions

For this Request, the following definitions apply:

a. "KALW" or the "Station" means noncommercial radio broadcast Station KALW(FM), San Francisco, California, and any of its employees.

b. "Application" means the application filed at the Federal Communications Commission (the "Commission") on August 1, 1997, by SFUSD for renewal of its license for KALW (File No. BRED-19970801YA) and all subsequent related submissions to the Commission, including, but not limited to, SFUSD's Opposition to the Petition to Deny

of Golden Gate Public Radio, and SFUSD's April 2001 response to the letter of inquiry sent by the (then-) Mass Media Bureau to SFUSD in February 2001.

c. "Document" means the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, videotaped, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any book, pamphlet, periodical, contract, agreement, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, personnel file, personnel folder, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form) in the possession, custody, or control of SFUSD.

d. "File" means the public inspection file as defined by section 73.3527 of the Commission's rules and the Documents contained therein, as maintained by KALW.

e. "Relating to" mean constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, concerns or in any way is pertinent to the specified subject, including Documents concerning the preparation of the Documents.

f. "The Sanchez Law Firm" means the law offices of Ernest T. Sanchez, Esquire, currently located at 2300 M Street, N.W., Suite 800, Washington, D.C. 20037, and

includes Ernest T. Sanchez, Susan M. Jenkins, and any associate, law clerk, paralegal, secretary and unpaid intern or volunteer who provided any service of any nature whatsoever to SFUSD in connection with the Application and/or File.

g. "All" shall be construed to include the word "any," and "any" shall be construed to include the word "all."

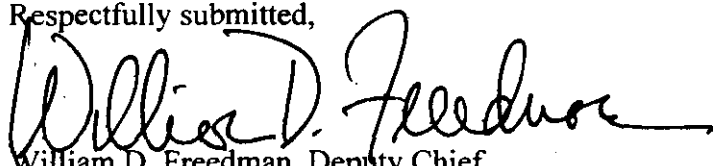
Documents Requested

1. All Documents relating to the attendance of Ms. Nicole Sawaya at KALW between March 1 and 8, 2001, including, but not limited to, her request(s) for leave or time off from work during that period.
2. Any performance evaluations and related Documents that refer to Ms. Nicole Sawaya's activities and/or actions taken with regard to the Application and/or File.
3. Any performance evaluations and related Documents covering the period August 1, 1997, to the present, that mention Mr. William Helgeson's activities and/or actions taken with regard to the Application and/or File.
4. All Documents relating to the Application prepared and/or exchanged by or between any or all of the following:
 - (a) Ms. Nicole Sawaya;
 - (b) Mr. William Helgeson;
 - (c) Ms. Jackie Wright; and
 - (d) The Sanchez Law Firm.

5. All Documents relating to the File prepared and/or exchanged by or between
any or all of the following:

- (a) Ms. Nicole Sawaya;
- (b) Mr. William Helgeson;
- (c) Ms. Jackie Wright; and
- (d) The Sanchez Law Firm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William D. Freedman", with a long horizontal flourish extending to the right.

William D. Freedman, Deputy Chief
James W. Shook, Special Counsel
Dana E. Leavitt, Special Counsel
Investigations and Hearings Division
Enforcement Bureau

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April 7, 2005

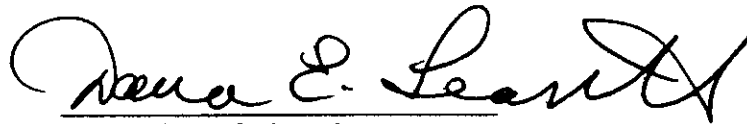
CERTIFICATE OF SERVICE

Dana E. Leavitt, Special Counsel in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 7th day of April, 2005, sent by first class United States mail, electronic mail (e-mail) and/or delivered by hand, copies of the foregoing "Enforcement Bureau's Fourth Request for Production of Documents from San Francisco Unified School District" to:

Marissa G. Repp, Esq. (by first class and electronic mail)
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
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Louise H. Renne, Esq. (by first class and electronic mail)
Renne Sloan Holtzman & Sakai, LLP
50 California Street, Suite 2100
San Francisco, CA 94111

Chief Administrative Law Judge Richard L. Sippel (by hand and electronic mail)
Federal Communications Commission
445 12th Street, S.W., Room 1-C768
Washington, D.C. 20054



Dana E. Leavitt